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11 LIFESTYLE DESIGN INTERNATIONAL, LLC

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 ROHAN SHEPHERD, individually and on behalf
15 of all others similarly situated,

16 Plaintiff,

17 vs.

18 LIFESTYLE DESIGN INTERNATIONAL, LLC;
19 ULTIMATELAPTOPLIFESTYLE.COM
20 Defendants

21 Case No.: 4:20-cv-06891-YGR

22 **JOINT CASE MANAGEMENT
23 STATEMENT**

24 **January 4, 2021
2:00 p.m.
25 Via Zoom**

26 Pursuant to Local Rule 16-9, and this Court's Order Setting Case Management Conference
27 (Dkt. 3) Plaintiff ROHAN SHEPHERD and Defendant LIFESTYLE DESIGN
28 INTERNATIONAL, LLC ("Lifestyle") (collectively, the "Parties") submit this Joint Case
Management Statement in advance of the January 4, 2020 Initial Case Management Conference
to be held at 2:00 p.m. via Zoom.

29 **1. JURISDICTION AND SERVICE**

30 **Plaintiff:**

31 This Court has federal subject matter jurisdiction over Plaintiff's claims under 28 U.S.C.

32 {00108827;1}

§ 1331, as this action arises under the Telephone Consumer Protection Act, 47 U.S.C. § 227, (“TCPA”) which is a federal statute.

Defendant Lifestyle:

Lifestyle had nothing to do with the calls at issue and therefore personal jurisdiction is improper. Ultimatelaptoplifestyle.com is simply a website previously operated by Lifestyle and is not a separate company.

2. FACTS

Plaintiff:

On or about April 2020, Plaintiff received a spam text message soliciting services which included hyperlinks. Those hyperlinks related to Defendant and its services. Plaintiff had no relationship with Defendant and the text messages are indicative of a SMS blasting platform which qualifies as an ATDS under the TCPA. Plaintiff brings this action on behalf of himself and all other similarly situated individuals who received such robotelegrams.

Defendant Lifestyle:

Lifestyle had nothing to do with the texts at issue.

3. LEGAL ISSUES

- a) Whether the calls violated the TCPA under 47 U.S.C. § 227(b)(1)(A)(iii).
- b) Whether the violations were knowing and/or willful under 47 U.S.C. § 227(b)(3)(C).
- c) Whether Plaintiff is entitled to up to treble damages based on the knowing or willfulness of Defendants' conduct under 47 U.S.C. § 227(b)(3)(C).
- d) Whether Plaintiff's class satisfies Rule 23.
- e) Whether Lifestyle called Plaintiff with an automatic telephone dialing system.

4. MOTIONS

1 There are no prior or pending motions at this time. Lifestyle intends to file a motion for a
 2 motion for summary judgment. Lifestyle may file a motion to stay this matter pending the
 3 Supreme Court's decision in *Facebook, Inc. v. Duguid*, No. 19-511, regarding the definition of a
 4 automatic telephone dialing system ("ATDS") under the TCPA. Plaintiff intends to file a
 5 Motion for Class Certification on the dates set forth below.
 6

7 **5. AMENDMENTS**

8 **Plaintiff:**

9 Plaintiff does not contemplate amending his pleading at this time.
 10

11 **Defendant Lifestyle:**

12 Lifestyle does not contemplate amending its pleadings at this time.
 13

14 **6. EVIDENCE PRESERVATION**

15 The Parties have reviewed the Guidelines Relating to the Discovery of Electronically
 16 Stored Information. Counsel for the Parties have instructed their clients to preserve all evidence
 17 that can reasonably be deemed relevant to this action. The Parties have been instructed to not
 18 destroy or delete any relevant documentary evidence including e-mails and electronic data.
 19

20 **7. DISCLOSURES**

21 The Parties will complete Rule 26 initial disclosures by December 31, 2020.
 22

23 **8. DISCOVERY**

24 Plaintiff plans to serve discovery regarding the equipment used by Lifestyle in placing
 25 calls, Defendant's call logs and records of consent. Plaintiff anticipates the need for electronic,
 26 written, and oral discovery. Plaintiff does not anticipate a need for an expert witness.
 27

28 Lifestyle will propound discovery relating to Plaintiff's call records and his claimed
 damages. Lifestyle also intends to take Plaintiff's deposition.
 29

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1 The Parties do not request any other limitations on or modifications to the requirements
2 of Rule 26 or the applicable discovery rules.

3 **9. CLASS ACTION**

4 Plaintiff intends to move for class certification after approximately six (6) months of
5 discovery and has set forth proposed dates below. Counsel of Record have reviewed the
6 Procedural Guidance for Class Action Settlements.

7 **10. RELATED CASES**

8 There are no related cases or proceedings pending before this Court or any other court or
9 administrative body.

10 **11. RELIEF**

11 **Plaintiff:**

12 Plaintiff seeks \$500 per negligent violation and \$1,500 per willful or wanton violation of
13 the TCPA on behalf of himself and all others similarly situated. The amount of damages
14 is difficult to calculate at this time without class discovery.

15 **Defendant Lifestyle:**

16 Lifestyle is not seeking damages in this action.

17 **12. SETTLEMENT AND ADR**

18 The Parties have not discussed settlement. The parties suggest at least four months of
19 discovery prior to a settlement conference before the court-sponsored mediator.

20 **13. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

21 Although the Parties are aware of the benefits of consenting to the jurisdiction of a
22 magistrate judge, there is not unanimous consent at this time.

23 **14. OTHER REFERENCES**

24
25 {00108827;1}

1 This case is not suitable for reference to binding arbitration, a special master, or the
 2 Judicial Panel on Multidistrict Litigation

3 **15. NARROWING OF ISSUES**

4 The Parties believe that it is too early to narrow any of the legal issues in this action.

5 **16. EXPEDITED TRIAL PROCEDURE**

6 The Parties do not believe this case is appropriate for handling on an expedited basis
 7 with streamlined procedures.

9 **17. SCHEDULING**

		Parties Proposed Dates
Deadline to amend pleadings		March 15, 2021
Expert reports due		June 11, 2021
Rebuttal expert reports due		July 9, 2021
Deadline to file motion for class certification		July 30, 2021
Opposition to motion for class certification due		August 27, 2021
Reply in support of motion for class certification		September 17, 2021
Discovery cut-off		October 15, 2021
Dispositive Motion deadline		November 12, 2021

		Parties Proposed Dates
Pretrial conference		January 10, 2022
Trial		January 24, 2022

18. TRIAL

Plaintiff has demanded a jury trial. The parties estimate 3-5 days for trial.

19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS

Plaintiff confirms that there are no other interested parties. Lifestyle filed its disclosure of interested persons on December 14 2020 (Dkt. 12).

20. PROFESSIONAL CONDUCT

All attorneys of record have reviewed the Guidelines for Professional Conduct for the Northern District of California.

By: /s/ Todd M. Friedman
Todd Friedman
Adrian Bacon
Attorneys for Plaintiff

By: /s/ David J. Kaminski
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Signature Certification

Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I hereby certify that the content of this document is acceptable to counsel for Defendant and that I have obtained counsel's authorization to affix counsel's electronic signature to this document.

Dated: December 28, 2020 **LAW OFFICES OF TODD M. FRIEDMAN, P.C.**

By: s/Todd M. Friedman
TODD M. FRIEDMAN, ESQ.
Attorney for Plaintiff

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1 Filed electronically on this 28th Day of December, 2020, with:

2 United States District Court CM/ECF system.

3 Notification sent electronically on this 28th Day of December, 2020, to:

4 Honorable Yvette G. Rogers
5 United States District Court
6 Northern District of California

7 And All Counsel of Record as Recorded On The Electronic Service List

8

9 /s/ Todd M. Friedman, Esq.

10 TODD M. FRIEDMAN

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